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by hand and electronic mail

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: D.T.E. No. 00-101

Dear Ms. Cottrell:

On December 6, 2000, by hearing officer memorandum, the Department requested that any parties seeking evidentiary proceedings in this docket do so by February 5, 2001. This letter serves as the response of AT&T Communications of New England, Inc. ("AT&T") to the Department's request.

AT&T does not request evidentiary hearings because none of the issues that have been raised require factual development. It is, however, important that the Department address the issues that AT&T and the other parties have raised.

In its December 4, 2000, Petition To Suspend, AT&T raised four issues: (1) the lack of demonstrated price floor compliance with a final price floor order from the Department; (2) Verizon's use of new services to meet price cap requirements based on assumed "take rates" for the new services for which no support is provided; (3) Verizon's use of rates and quantities of wholesale services not subject to the price cap plan to determine the compliance of services subject to the price cap plan; and (4) upon the introduction of new services, Verizon's failure to provide other parties with its purported demonstration such services satisfy a price floor requirement.

Because the Department has stated that it will require Verizon to comply with its price floor order when issued, the only issue that potentially raises a factual dispute is the implicit "take rate" assumptions that Verizon uses for new services to (purportedly) demonstrate price cap compliance. See, D.P.U. 96-68 (April 14, 1997), at 27 ("Since the number of customers migrating to the new service from an existing service is subject to an element of uncertainty, the Department must further determine whether NYNEX's demand assumptions are reasonable."). The factual issue, however, does not need to be addressed as long as the Department handles the issue as it did in D.P.U. 96-68. In that case, the Department stated:

Accordingly, the Department directs NYNEX to reconcile its demand estimates with actual subscription levels and to propose any necessary revenue adjustments in its Third Annual Compliance Filing. In addition, because NYNEX also estimated demand changes in calculating the revenue impact of Business Link, the Department directs NYNEX to reconcile demand estimates with actual subscription levels and to propose any necessary revenue adjustments to Business Link in its Third Annual Compliance Filing.

Id. at 28. AT&T recommends that the Department direct Verizon to make the same

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reconciliation that it did in the past. This is necessary because, at least in the case of the Eastern LATA plan at issue in D.P.U. 96-68, it became apparent in the subsequent reconciliation filing that Verizon's assumptions regarding the "take rate" had been overstated. In the absence of the reconciliation, therefore, Verizon would have taken "credit" for rate reductions that it did not provide. Given Verizon's track record, when Verizon relies on assumptions to satisfy the pricing rules of the price cap plan, it is important that the Department test the assumptions or require Verizon to adjust for reality once it becomes known.

The second two issues identified by AT&T raise important policy considerations, and AT&T would be pleased to address them on brief. If, in the interest of conserving administrative resources, the Department does not wish to address them in this docket, the Department should consider them as part of a general investigation to determine the proper form of Verizon price regulation when the current price cap regime ends in August of this year. Moreover, such an investigation would need to address issues that go far beyond the second two issues raised above. Most importantly, that investigation should address the establishment of Verizon starting rates from which future price changes would be permitted under the new pricing rules. The relationship between those starting rates and the rates for unbundled network elements will determine the future of local exchange competition in Massachusetts.

Very truly yours,

Jay E. Gruber

Enclosures

cc: Service List (attached)